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DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-811]

Xanthan Gum from Austria: Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

SUMMARY: On January 10, 2013, the Department of Commerce (“Department”) published its preliminary determination of sales at less than fair value (“LTFV”) and postponement of final determination in the antidumping (“AD”) investigation of xanthan gum from Austria.¹ On March 4, 2013, the Department released its post-preliminary differential pricing analysis.² The Department invited interested parties to comment on the *Preliminary Determination* and Post-Preliminary Analysis and Calculation Memorandum. Based on an analysis of the comments received, the Department has made changes from the *Preliminary Determination*. The Department has determined that xanthan gum from Austria is being, or is likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the “Act”). The final weighted-average dumping margins for this investigation are listed in the “Final Determination” section below.

¹ See *Xanthan Gum from Austria: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2251 (January 10, 2013) (“*Preliminary Determination*”).

² See Memorandum from Christian Marsh, Deputy Assistant Secretary Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, concerning, Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum, dated March 4, 2013 (“Post-Preliminary Analysis and Calculation Memorandum”).

FOR FURTHER INFORMATION CONTACT: Drew Jackson or Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4406 or (202) 482-4081, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Determination* on January 10, 2013.³ On March 4, 2013, the Department issued its Post-Preliminary Analysis and Calculation Memorandum to determine whether an alternative comparison methodology should be used. Based on this analysis, the Department determined that application of an alternative calculation methodology was not appropriate for Jungbunzlauer Austria AG (“JBL Austria”) and, accordingly, continued to apply the average-to-average method.⁴

On March 12, 2013, JBL Austria and Petitioner⁵ submitted case briefs. On March 18, 2013, JBL Austria and Petitioner submitted rebuttal briefs. Subsequently, the Department rejected JBL Austria’s March 18, 2013 rebuttal brief because it contained new factual information.⁶ On April 9, 2013, JBL Austria resubmitted a redacted version of its rebuttal brief.

On April 10, 2013, the Department held a hearing, which was requested by Petitioner and JBL Austria.

³ The Department postponed the deadline for the final determination to not later than 135 days after publication of the *Preliminary Determination* (i.e., January 10, 2013). See *Preliminary Determination*, 78 FR at 2254. However, because May 25, 2013, falls on a non-business day, the revised deadline for this final determination is now May 28, 2013. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁴ See *id.*

⁵ Petitioner in this investigation is CP Kelco U.S.

⁶ See Letter from Abdelali Elouaradia, Director, AD/CVD Operations Office 4, to JBL Austria, concerning, Antidumping Investigation of Xanthan Gum from Austria: New Factual Information in Jungbunzlauer Austria Rebuttal Brief, dated April 15, 2013.

Period of Investigation

The period of investigation is April 1, 2011, through March 31, 2012. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was June 2012.

Verification

As provided in section 782(i) of the Act, between January 14, 2013, and February 7, 2013, the Department verified the information submitted by JBL Austria for use in the final determination.⁷ Verification reports were issued between February 21, 2013, and March 4, 2013. The Department used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by these respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum.⁸ A list of the issues which the parties raised and to which the Department responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records

⁷ See Memorandum to the File through Neal Halper, Director Office of Accounting, concerning, Verification of the Cost Response of Jungbunzlauer Austria in the Antidumping Duty Investigation of Xanthan Gum from Austria, dated February 20, 2013. See also Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, concerning, Verification of the Questionnaire Responses of Jungbunzlauer Austria AG, dated February 19, 2013. See also Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, concerning, Verification of the Questionnaire Responses of Jungbunzlauer Ladenburg GmbH, dated February 19, 2013. See also Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, concerning, Verification of the Sales Response of Jungbunzlauer Inc. in the Antidumping Investigation of Xanthan Gum from Austria, dated March 4, 2013 ("CEP Sales Verification Report").

⁸ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Xanthan Gum from Austria" (May 28, 2013) ("Issues and Decision Memorandum").

Unit, which is in room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at www.trade.gov/ia. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

- We applied partial adverse facts available with respect to the material codes for which JBL Austria did not report its grade characteristic in accordance with the Department's reporting requirements.⁹
- We applied partial adverse facts available to the reported inland freight expense from warehouse to the customer in the United States according to the Department's findings at the sales verification.¹⁰
- We adjusted the reported freight expense incurred on transporting xanthan gum to and from the further manufacturing locations according to the Department's findings at the sales verification.¹¹
- We applied a differential pricing analysis to determine the appropriate comparison method, rather than the targeted dumping test. *See* Issues and Decision Memorandum.

Scope of the Investigation

The scope of this investigation covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this investigation regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber.

⁹ *See* Issues and Decision Memorandum at Comment 1.

¹⁰ *See* Memorandum to the File, concerning "Final Determination Margin Calculation for Jungbunzlauer Austria AG" dated May 28, 2013; *see also* CEP Sales Verification Report at 2. *See* Issues and Decision Memorandum at Comment 2.

¹¹ *See* Issues and Decision Memorandum at Comment 3.

Xanthan gum that has been blended with other product(s) is included in this scope when the resulting mix contains 15 percent or more of xanthan gum by dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.

Xanthan gum is a polysaccharide produced by aerobic fermentation of *Xanthomonas campestris*. The chemical structure of the repeating pentasaccharide monomer unit consists of a backbone of two P-1,4-D-Glucose monosaccharide units, the second with a trisaccharide side chain consisting of P-D-Mannose-(1,4)- P-DGlucuronic acid-(1,2) - a-D-Mannose monosaccharide units. The terminal mannose may be pyruvylated and the internal mannose unit may be acetylated.

Merchandise covered by the scope of this investigation is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.

Final Determination

The Department determines that the following weighted-average dumping margins exist for the period April 1, 2011, through March 31, 2012:

Exporter/Manufacturer	Weighted-Average Dumping Margin
Jungbunzlauer Austria AG	29.98 %
All Others	29.98 %

The “All Others” rate is based on the weighted-average dumping margin calculated for JBL Austria, the only company for which the Department calculated a rate.¹²

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in this investigation to parties within five days of the date of publication of this notice in the *Federal Register*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all appropriate entries of xanthan gum from Austria as described in the “Scope of the Investigation” section, which were entered, or withdrawn from warehouse, for consumption on or after January 10, 2013, the date of publication of the *Preliminary Determination* in the *Federal Register*. CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department has notified the International Trade Commission (“ITC”) of the final affirmative determination of sales at LTFV. In accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the merchandise under consideration. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded.

¹² See section 735(c)(5)(A) of the Act.

If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

____ May 28, 2013 _____
Date

Appendix

ISSUES FOR THE FINAL DETERMINATION

- Comment 1: Whether the Department should apply total adverse facts available (“AFA”) to JBL Austria because it misreported the grade for the majority of its U.S. and comparison market sales
- Comment 2: Whether the Department should apply AFA because JBL Austria withheld information regarding its possible affiliations
- Comment 3: Repacking Costs

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